

JP 2-6-06 37

HAROLD G. HOPPE 5049  
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Honolulu, HI 96813  
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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JOHN R. HILLSMAN 71220  
McGuinn, Hillsman & Palefsky  
535 Pacific Avenue  
San Francisco, CA 94133  
Telephone: (415) 421-9292  
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3 FEB 06 2006  
at 3 o'clock and 4th M  
SUE BEITIA, CLERK

Attorneys for Dennis Claypool,  
Sheryl Claypool, Scott Claypool and Kristen Claypool

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DENNIS CLAYPOOL, individually	)	Civil No. CV04 00570 HG- BMK
and as Guardian Ad Litem for	)	
KRISTEN CLAYPOOL, a minor,	)	NOTICE OF ACCEPTANCE OF
SHERYL CLAYPOOL, SCOTT	)	BLUE DOLPHIN CHARTERS,
CLAYPOOL, and KRISTEN	)	LTD.'S OFFER TO ALLOW
CLAYPOOL,	)	MONEY JUDGMENT TO BE
Plaintiffs,	)	TAKEN AGAINST LIMITATION
vs.	)	PLAINTIFF/DEFENDANT BLUE
	)	DOLPHIN CHARTERS, LTD., IN
CAPTAIN ANDY'S SAILING, INC.,	)	FAVOR OF THE CLAYPOOL
BLUE DOLPHIN CHARTERS, LTD.	)	PLAINTIFFS PURSUANT TO RULE
and BLUE DOLPHIN DIVING, INC.,	)	68 OF THE FEDERAL RULES OF
Defendants.	)	CIVIL PROCEDURE;
	)	DECLARATION OF HAROLD G.
	)	HOPPE; OFFER OF JUDGMENT;

CERTIFICATE OF SERVICE.

MATTHEW ISHAM, individually ) CIVIL NO. CV04-00559 HG-BMK  
and as Guardian ad Litem for )  
HAYDEN ISHAM, a minor; )  
ROXANNE BEST ISHAM, )  
 )  
Plaintiffs, )  
vs. )  
 )  
BLUE DOLPHIN CHARTERS, )  
LTD. and BLUE DOLPHIN )  
DIVING, LTD., CAPTAIN )  
ANDY'S SAILING, INC., )  
 )  
Defendants. )

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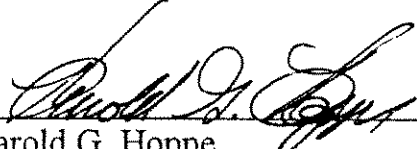
IN THE MATTER OF THE ) Civil No. CV05-00037 HG BMK  
COMPLAINT OF BLUE DOLPHIN )  
CHARTERS, LTD. AND TERRY )  
DONNELLY, AS OWNERS OF )  
THE VESSEL M/V BLUE )  
DOLPHIN, O/N 1082212, FOR )  
EXONORATION FROM AND/OR ) Trial date: April 11, 2006  
LIMITATION OF LIABILITY )

NOTICE OF ACCEPTANCE OF BLUE DOLPHIN CHARTERS, LTD.'S OFFER  
TO ALLOW MONEY JUDGMENT TO BE TAKEN AGAINST LIMITATION  
PLAINTIFF/DEFENDANT BLUE DOLPHIN CHARTERS, LTD., IN FAVOR OF  
THE CLAYPOOL PLAINTIFFS PURSUANT TO RULE 68 OF THE FEDERAL  
RULES OF CIVIL PROCEDURE

COME NOW, DENNIS CLAYPOOL, SHERYL CLAYPOOL, SCOTT CLAYPOOL, and KRISTEN CLAYPOOL, Plaintiffs in the above entitled action and pursuant to Rule 68 of the Federal Rules of Civil Procedure, hereby give notice of their acceptances of the Offer of Judgment made by Blue Dolphin Charters, Ltd.

This notice is given on the basis of the attached declaration of Counsel and the original Offer to Allow Money Judgment to be Taken Against Limitation Plaintiff/Defendant Blue Dolphin Charters, Ltd., in Favor of the Claypool Plaintiffs, attached hereto; the file and record in this case; and Rule 68 of the Federal Rules of Civil Procedure.

Dated: February 6, 2006, Honolulu, Hawaii

  
\_\_\_\_\_  
Harold G. Hoppe  
Co-Counsel for Plaintiffs  
DENNIS CLAYPOOL, SHERYL  
CLAYPOOL, SCOTT CLAYPOOL AND  
KRISTEN CLAYPOOL

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

DENNIS CLAYPOOL, individually	)	Civil No. CV04 00570 HG- BMK
and as Guardian Ad Litem for	)	
KRISTEN CLAYPOOL, a minor,	)	
SHERYL CLAYPOOL, SCOTT	)	DECLARATION OF HAROLD G.
CLAYPOOL, and KRISTEN	)	HOPPE
CLAYPOOL,	)	
	)	
Plaintiffs,	)	
vs.	)	
	)	
CAPTAIN ANDY'S SAILING,	)	
INC., BLUE DOLPHIN	)	
CHARTERS, LTD. and BLUE	)	
DOLPHIN DIVING, INC.,	)	
Defendants.	)	
	)	

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MATTHEW ISHAM, individually	)	CIVIL NO. CV04-00559 HG-BMK
and as Guardian ad Litem for	)	
HAYDEN ISHAM, a minor;	)	
ROXANNE BEST ISHAM,	)	
	)	
Plaintiffs,	)	
vs.	)	
	)	
BLUE DOLPHIN CHARTERS,	)	
LTD. and BLUE DOLPHIN	)	
DIVING, LTD., CAPTAIN	)	
ANDY'S SAILING, INC.,	)	
	)	
Defendants.	)	
	)	

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IN THE MATTER OF THE	)	Civil No. CV05-00037 HG BMK
COMPLAINT OF BLUE DOLPHIN	)	
CHARTERS, LTD. AND TERRY	)	
DONNELLY, AS OWNERS OF	)	
THE VESSEL M/V BLUE	)	
DOLPHIN, O/N 1082212, FOR	)	
EXONORATION FROM AND/OR	)	
LIMITATION OF LIABILITY	)	

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DECLARATION OF HAROLD G. HOPPE

HAROLD G. HOPPE, hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney duly admitted to practice before this Court and co-counsel of record for Plaintiffs DENNIS CLAYPOOL, SHERYL CLAYPOOL, SCOTT CLAYPOOL, and KRISTEN CLAYPOOL herein.

2. I make this declaration in support of the CLAYPOOL Plaintiffs' Notice of Acceptance of Blue Dolphin Charters, Ltd.'s Offer to Allow Money Judgment to Be Taken Against Limitation Plaintiff/defendant Blue Dolphin Charters, Ltd., in Favor of the Claypool Plaintiffs Pursuant to Rule 68 of the Federal Rules of Civil Procedure the signed original of this offer accompanies this Notice and Declaration.

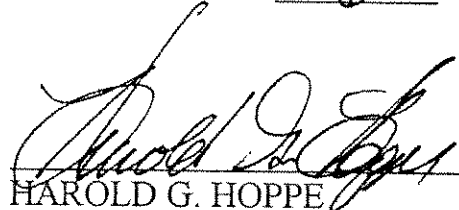
3. The Offer to Allow Money Judgment to Be Taken Against Limitation Plaintiff/defendant Blue Dolphin Charters, Ltd., in Favor of the Claypool Plaintiffs Pursuant to Rule 68 of the Federal Rules of Civil Procedure was signed by Allen K.

Hoe, Esq., at the direction of Robert F. Miller, Esq., the attorney for Terry Donnelly and Blue Dolphin Charters, Ltd. on December 20, 2005, because Mr. Miller was out of town.

4. Mr. Miller later extended the offer for a time period of time to extend beyond the date of a Mandatory Settlement Conference which was scheduled for January 18, 2006, but which was cancelled by the Court due to a Motion by Lexington Insurance.

5. In the intervening time period, the parties have been involved in negotiations which have culminated in a settlement which incorporate in part the subject offer attached hereto.

EXECUTED UNDER PENALTY OF PERJURY THIS 6<sup>th</sup> DAY  
OF FEBRUARY, 2006.

  
HAROLD G. HOPPE

**ROBERT F. MILLER 2055**  
**735 BISHOP ST., PH 500**  
**HONOLULU, HI 96813**  
**Telephone: (808)521-3356**  
**Facsimile: (808) 521-3359**  
**Attorney for Terry Donnelly**  
**and Blue Dolphin Charters**

UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

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DENNIS CLAYPOOL, individually ) No. CV04 00570 HG- BMK  
and as Guardian Ad Litem for )  
KRISTEN CLAYPOOL, a minor, )  
SHERYL CLAYPOOL, SCOTT )  
CLAYPOOL, and KRISTEN )  
CLAYPOOL, )  
Plaintiffs, )  
vs. )  
CAPTAIN ANDY'S SAILING, INC., )  
BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, INC., )  
Defendants. )

MATTHEW ISHAM, individually ) NO. CV04-00559 HG-BMK  
and as Guardian ad Litem for )  
HAYDEN ISHAM, a minor, )  
ROXANNE BEST ISHAM, )  
Plaintiffs, )  
vs. )  
BLUE DOLPHIN CHARTERS, LTD. )  
and BLUE DOLPHIN DIVING, LTD., )  
CAPTAIN ANDY'S SAILING, )  
INC., )  
Defendants. )

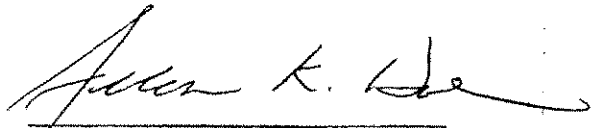


COMES NOW LIMITATION PLAINTIFF / DEFENDANT BLUE DOLPHIN CHARTERS, LTD., pursuant to Fed.R.Civ.P. 68, who herewith offers to allow a "new money" judgment to be taken against it, over and above any settlement sums already paid to the CLAYPOOL Claimants by its employee MATTHEW ISHAM, in the amounts of:

- (1) \$950,000 in favor of Plaintiff / Limitation Claimant DENNIS CLAYPOOL;
- (2) \$650,000 in favor of Plaintiff / Limitation Claimant SHERYL CLAYPOOL;
- (3) \$50,000 in favor of Plaintiff / Limitation Claimant SCOTT CLAYPOOL, and;
- (4) \$50,000 in favor of Plaintiff KRISTEN CLAYPOOL.

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DATED: Honolulu, Hawaii, December 20, 2005

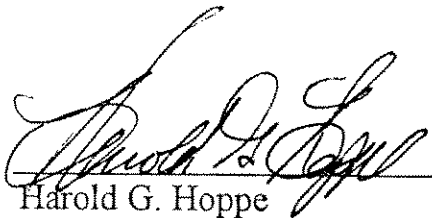
  
for - ROBERT F. MILLER  
Attorney for Terry Donnelly  
and Blue Dolphin Charters

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on February 6, 2006, upon the following persons and parties as follows:

Type of Service	Addressee	Party
Hand Delivery	John R. Lacy Randy L.M. Baldemor GOODSILL ANDERSON QUINN & STIFEL Alii Place 1099 Alakea St. Suite 1800 Honolulu, HI 96813	Blue Dolphin Charters
Hand Delivery	Robert F. Miller 735 Bishop St., PH 500 Honolulu, HI 96813	Blue Dolphin Charters Terry Donnelly
United States Mail	Richard Lesser 1 Pearl Street Redondo Beach, CA 90277	Isham Plaintiffs

DATED: Honolulu, Hawaii, February 6, 2006

  
Harold G. Hoppe  
Co-counsel for Plaintiffs